

**TULARE COUNTY WATER COMMISSION
MEETING MINUTES
July 8, 2013**

Members Present:

Allen Ishida, Board Representative and Chairman
Richard L. Schafer, District 5 Appointee
Paul Boyer, District 1 Appointee
Keith Watkins, At-Large Appointee
Dennis Keller, At-Large Appointee
Mark Larsen, District 3 Appointee
Chris Kapheim, District 4 Appointee
Mike Ennis, Board Alternate Representative
Dale Brogan, District 2 Appointee
Rudy Mendoza, TCAG Representative

Members Absent:

Susana De Anda, At-Large Appointee

Staff Present:

Julieta Martinez, Tulare County Board of Supervisors
Denise Akins, County Administrative Office
Nina Dong, County Counsel

Members of the Public who voluntarily provided their names on the attendance sheet:

Carole Clum
Pat Pinkham
Nilsa Gonzalez
Shane Smith
Michael Tharp
Michael Hickey
Richard Garcia
Beverly Garcia
Steve Stadler

1. Call to Order

The meeting was called to order at 3:00pm.

2. Public Comment Period

Carol Clum of Three Rivers provided the Commission with a handout on a Bay Delta Water Plan. See attachment.

3. Approval of Minutes from June 10, 2013 meeting

Motion by Commissioner Boyer, Second by Commissioner Kapheim. Motion Approved.

4. Ratify the Ad Hoc Committee as selected on 6-10-13

Motion by Commissioner Brogan, Second by Commissioner Boyer. Motion approved.

5. Update on Water Bond Position

Commissioner Keller gave an update on the letter. The ad hoc committee drew up a draft that supports a

modification to the bond structure. The committee addressed the board's concerns with respect to the need for storage while at the same time addressing the needs for resources development beyond storage and the protection of the delta. After the first draft, Commissioner Schafer added additional consideration in regards to water storage and finished that off with some consideration for access to water that currently is not tapped. He stated that the committee has come back to the Commission with a draft letter that contains a change in approach to a support versus an opposed position, but support if it contains those items and an explanation that the Board understands the need to have the Bond come in under the ten billion dollar mark but not at the expense of storage.

Commissioner Larsen shared that he believed the 8.2 million being floated around right now has been really thought through. He stated that the funding includes allocation for local activities which he thinks is a really strong piece and will allow for the IRWM process to continue and he is in support of that. Plus, it has the storage option that hasn't changed.

Commissioner Mendoza pointed out that statement in the third paragraph, last sentence, was somewhat weak. He recommended we use stronger language there and not ask the legislature take another look but to address the issue at hand. Discussion followed.

Commissioner Keller suggested making a change to the paragraph and handed his revisions to staff.

Chairman Ishida asked for a motion to approve the revised draft letter as recommended by the Water Commission to the Board of Supervisors.

Motion made by Commissioner Keller, second by Commissioner Watkins. Motion Approved.

6. Discussion on the Irrigated Lands Regulatory Program Nitrate Monitoring Requirements

Commissioner Schafer stated that the Southern San Joaquin Valley Water Quality Coalition met on the 3rd of July and under advice of the attorney's advisory committee, decided not to appeal Judge Frawley's order. They felt that it was unlikely the appeal could stay the order and the Order would continue, and there was risk in going to the court of appeals that might result in additional requirements such as more interpretation of the anti-degradation State Board Resolution of 1968, etc. As far as the coalition is concerned, they will not appeal but the Farm Bureau Federation is still considering. The regional board has set September 19th for a hearing at the Radisson hotel in Fresno where it is anticipated the board will adopt the Order. The coalition is requesting a final draft of the proposed Order. The last draft was issued March 2013. The Coalition would like to perform a final review before the hearing.

Commissioner Keller stated the only other thing to note is that it would appear at this time as though there will be at least four third parties implementing the Order that will cover this area and maybe even a portion of the western part of the County will be covered by one or two new third parties.

Commissioner Schafer stated that after the Order is adopted, the hope is that landowners will challenge the regional board's authority to proceed as they have without first determining that a grower has indeed violated the Basin Plan objectives which require them to participate and develop requirements for a waste discharge. He is not sure who that landowner would be but hopes there is one out there.

Chairman Ishida asked if there will be fees within that order.

Commissioner Keller responded by stating that fees actually run on a different basis. At the current time, there has been a fee hearing that covers what the State Board had established as the basis for the fee and sort of an overview of where the regional board is on actual staff in comparison to budgeted FTE's. The Coalition can expect that at a minimum, fees that have been programmed into last year's go around will be doubled. Keeping in mind that the current fee structure is for a program that is for surface water only. This new order paradigm is for both surface water and ground water.

Commissioner Schafer commented on the two fees. The current fee paid to the State Board is based upon the reports turned in during July for the acreage that has signed up for the surface water program. Last

year it was 56 cents an acre for those acreages signed up. We are told that the State Board fee will be increased twelve to twelve and one half percent which means for the 2013-14 year the fee will be about 63 cents an acre. That has nothing to do with the Irrigated Lands Regulatory Program fees that includes ground water. Discussion followed.

7. Discussion on occupancy regulations or permits for new housing, permanent structure or temporary, regarding drinking water compliance, i.e., nitrates, DBCP and bacteria

Commissioner Kapheim began the comments. He stated he did not know what the County requirements are for new dwellings but he sees farmworker trailers popping up all over the place. He shared that he sees new homes being built where there is not good drinking water. His concern is that the County has allowed homes coming in, but is there someone looking at the drinking water before they come in to these areas. Conditions should be looked at from the start rather than after the fact. He asked about what the County does in terms of monitoring or approval before new homes come in and what we should be doing.

Kayode Kadara, a member of the public, stated that this is a very timely issue to discuss. He shared that he appreciates the fact that this came up. In Allensworth the community service district established a moratorium in 2010. It was essentially because they didn't know the capacity and how much water can be generated for the community. This was very evident because they just experienced a fire a few weeks prior. Do to this fire, the fire department had to go to Alpaugh to get water to help fight the Allensworth fire.

One of the key issues in Allensworth is arsenic in the drinking water. The community has seen arsenic levels of 150. As a result of this moratorium, there was property owners that came to County to apply for permits to create wells. Community members challenged the issuance of the first permit at the time. They were told they had no basis to challenge why a family was being issued drilling permits. Bottom line, Allensworth has a moratorium, people have property, they have the right to put a well in and what is happening to those wells. There is property owners that live outside of town that bring in trailers late at night, they bring people who live in those trailers and drink the water from the wells. He raised the question to the County of who is responsible for all those residents drinking high levels of arsenic in their drinking water. He was told that the County issues permits to drill but have nothing to do with extraction. To him it is unconscionable that anyone would take a position like that. Children and adults are being exposed to arsenic and in the meantime the County is saying there is nothing that can be done because people have the right to drill wells. From his standpoint, our job is to do the best we can to improve the quality of life in Tulare county.

Commissioner Boyer shared that self-help has worked with Allensworth for many decades. Back in the early 80's, testing water wells in community services district boundaries, they found many wells with high arsenic levels. He stated he understands what Mr. Kadara is saying because they do not have enough water for more connections, but in the meantime if permits are given to drill wells that water will be over the safe drinking level.

Commissioner Kapheim then asked who is responsible to ensure that people have safe drinking water. He mentioned he was not just speaking in regards to community service districts but in all rural areas.

Commissioner Boyer stated that at one point county health was testing water in different areas though he is not sure if this was still the case.

Chairman Ishida stated that this was a great topic to bring up and it warrants discussion and he understands the concerns being brought forward. He stated the County may need to look at the permitting of the dwellings. He commented that a mortgage lender may come into this act and say they are not going to lend money unless you can prove there is potable water, but that does not mean the County needs to wait for them to step in. He stated that staff of RMA and Environmental Health side need to take a look at this issue.

Commissioner Brogan asked if the Commission could get a report back on what the requirements are for those permits.

Chairman Ishida responded by saying there will be a report at the next meeting. He directed Environmental

Health Staff to prepare a presentation.

8. Update on Tulare Lake Basin Disadvantaged Community Water Study

Commissioner Keller shared that the pilot on private systems is going to be making recommendations to the Board. If the Board so chooses some of those recommendations will go on to the state legislature. There is no mechanism by which there is a disclosure of what the drinking water quality is associated with single family residences outside of the farmworker related housing. There will be recommendation to the Board that they look at including in the parallel process a disclosure requirement so that a well driller doesn't just go drill a hole, but there actually be a statutory requirement for tests to be run and make a determination to make sure they are not in violation of federal and state drinking water quality standards. Discussion followed.

Denise Akins added that the next Stakeholder Oversight Advisory group will meet at the County Administrative Office on July 24th from 3:30pm to 5:30pm. They will be reviewing the technical solutions pilot project.

Chairman Ishida stated he believed it to be very important to give feedback on these reports as soon as possible. He asked that everyone please read them over and comment back.

9. Subcommittee Reports

Commissioner Schafer was pleased to report for the nitrate subcommittee which began in 2008, due to the interest of Michael Spata and Michael Hickey, RMA, in the preparation of the Dairy EIR, there is a lot of information in the data bank now that covers 25,000 wells. There is 22,000 nitrate samples of 1100 systems. A system may have a dozen wells or three wells for example. That data is for the period of 2006-2011. It is the subcommittee's goal for the staff to prepare a map that shows the location and the depth of all the wells in the system, a map that would show the level of nitrate in each of the wells, and an EC map of level of salt for these same wells. This would be based on the data that is in County records. He shared that he is looking forward to moving this along and asked Michael Hickey if he had any more information to add

Michael Hickey, RMA, stated that the Dairy EIR will be available for the Water Commission to review in September. More detailed data about nitrates may be available a month after.

Chairman Ishida asked Michael Spata, Michael Hickey, Rayburn to get together and figure out the costs to get these maps.

Michael Hickey mentioned most of it would be staff time.

10. Staff Reports

None at this time.

11. Commissioners Comments

Commissioner Kapheim discussed certain bills in the current legislature. AB 69 (Parea) will put one cent on the gross sale of a nitrate product in California (per dollar of sales). It is expected to bring anywhere from 16-20 million dollars a year. These funds will be to the solve drinking water problems in disadvantaged communities. AB 145 moves the entire drinking water program from CDPH to the State Board. The genesis of this bill is because of some of the issues with CDPH.

Commissioner Schafer, commented that in the interim under AB 69, the state could raise as much as 100 million dollars but the use has not been identified. Discussion followed.

Commissioner Schafer noticed that the Bay Delta Conservation Plan is subject to a public meeting on July 17th where they are going to review the admin draft.

Denise Akins shared that she attended the Bay Delta tour a couple days back and the public meeting on the 17th will be available via webinar for those who are unable to travel at that time.

12. Next meeting – Monday, August 12, 2013, 3:00 p.m. – Board of Supervisors Chambers

13. Adjourn

The meeting adjourned at 4:10pm.